



Report to the Auburn City Council

Action Item

Agenda Item No.

2

City Manager's Approval

To: Mayor and City Council Members
From: Amy M. Lind, Deputy City Clerk
Date: August 27, 2012
Subject: Authority to Determine Public Convenience/ ABC Liquor License Applications

The Issue

Shall the City Council grant authority to Police Chief John Ruffcorn to determine Public Convenience or Necessity for the City of Auburn in regards to ABC Liquor License Applications?

Conclusion and Recommendation

That by **RESOLUTION** the City Council grant authority to Police Chief John Ruffcorn to determine Public Convenience or Necessity for the City of Auburn in regards to ABC Liquor License Applications.

Background

Section 23958.4 of the Business and Professions Code allows the Local Governing Body to make a determination of Public Convenience or Necessity for liquor license applications within an area of undue concentration or high crime. This law, passed in 1996, affects license requests in high crime areas, or in areas where there is already an undue concentration of ABC licenses, essentially giving the City more authority over placement of ABC licenses within the City. The Department of Alcoholic Beverage Control is updating their records and last shows the City Council gave Police Chief Michael Morello this authority in 1998. This item is only to update their record which requires a resolution stating such authority.

Attachments

Letter from Alcoholic Beverage Control
Code Section
Resolution

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

2400 Del Paso Rd., Suite 155
Sacramento, CA 95834
(916) 419-1319



May 10, 2012

Auburn City Council
1225 Lincoln Way
Auburn, CA 95603

Auburn City Council,

This office is currently updating our records. As you know, Section 23958.4 of the Business and Professions Code allows the Local Governing Body to make a determination of Public Convenience or Necessity for liquor license applications within an area of undue-concentration or high crime.

A review of our records determined that in 1998 the City Council gave Police Chief Michael Morella the authority to determine Public Convenience or Necessity for your City.

Please provide this office with the name and contact information for the person or entity who currently has the authority to determine Public Convenience or Necessity for your City. Please provide any and all supporting documents (resolutions etc.) for our records.

If you have any questions, please do not hesitate to call me at (916) 419-2853.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathryn Sandberg'.

Kathryn Sandberg
Supervising Investigator
Sacramento District Office

23958.4. (a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.

(c) For purposes of this section, the following definitions shall apply:

(1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

(4) "Population in the county" shall be determined by the annual population estimate for California counties published by the Population Research Unit of the Department of Finance.

(5) "Retail licenses" shall include the following:

(A) Off-sale retail licenses: Type 20 (off-sale beer and wine) and Type 21 (off-sale general).

(B) On-sale retail licenses: All retail on-sale licenses, except Type 43 (on-sale beer and wine for train), Type 44 (on-sale beer and wine for fishing party boat), Type 45 (on-sale beer and wine for boat), Type 46 (on-sale beer and wine for airplane), Type 53 (on-sale general for train and sleeping car), Type 54 (on-sale general for boat), Type 55 (on-sale general for airplane), Type 56 (on-sale general for vessels of more than 1,000 tons burden), and Type 62 (on-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons displacement).

(6) A "premises to premises transfer" refers to each license being separate and distinct, and transferable upon approval of the department.

(d) For purposes of this section, the number of retail licenses in the county shall be determined by the most recent yearly retail license count published by the department in its Procedure Manual.

(e) The enactment of this section shall not affect any existing rights of any holder of a retail license issued prior to April 29, 1992, whose premises were destroyed or rendered unusable as a result of the civil disturbances occurring in Los Angeles from April 29 to May 2, 1992, to reopen and operate those licensed premises.

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RESOLUTION NO. 12-

RESOLUTION AUTHORIZING CHIEF OF POLICE TO MAKE CERTAIN
DETERMINATIONS REGARDING ALCOHOLIC BEVERAGE CONTROL LICENSES

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

Pursuant to Business and Professions Code Section 23958, the City Council does hereby authorize the Chief of Police, John Ruffcorn, to determine public convenience and necessity with respect to Alcohol Beverage Control applications referred by the State.

DATED: August 27, 2012

Kevin Hanley, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing resolution was duly passed at a regular meeting of the City Council of the City of Auburn held on the 27th day of August 2012 by the following vote on roll call:

Ayes:
Noes:
Absent:

Joseph G. R. Labrie, City Clerk

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